



# THE SENTINEL

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## *INSIDE THIS ISSUE*

*Top Ten Scams*  
page 1

*What Investors Can Do*  
page 4

*Three Questions To Ask*  
page 4

*Seven Common*  
*Warning Signs*  
page 4

*Statistical Information*  
page 5

*Litigation Against*  
*the Division*  
page 5

*Enforcement:*  
*Revisions*  
*Promoters*  
*Prime Bank*  
page 6

*Enforcement Actions:*  
*October through*  
*December*  
page 7

*Evaluation of Services*  
page 11

## **2007 TOP TEN SCAMS PREDICTED**

The Division of Securities released its predictions of the ten investment scams predicted to be most prevalent in 2007. The list details fraudulent activity tracked by the Division of Securities over the past year and offers predictions on which investment schemes to watch for in 2007.

"Securities scams continue to target Utah investors," said Francine A. Giani, Executive Director of the Department of Commerce. "We hope citizens will memorize this list because an educated investor is the best defense against fraud."

"Close to 50% of all enforcement actions brought by the Division of Securities in 2006 involved a person with a prior criminal background or state sanction," said Wayne Klein, Director of the Division of Securities. "We urge investors to check out the promoter's background and investment offers with our Division before handing over your money."

## **INVESTMENT SCAM PREDICTIONS**

**1. Real Estate Investments.** Real estate values have escalated dramatically around the country and in Utah. This has lured crooks into the real estate investment industry and has made investors think they can make dramatic profits through real estate investing. These scams take several forms: using your credit (or credit score) to allow promoters to buy homes and resell them, borrowing money to buy and sell (flip) real estate, buying homes at inflated prices in the names of investors with the expectation that there will be money left over to invest, "hard money" lending pools that will be used to finance high-interest home loans (promising investors 2-4% interest per month), and claiming that real estate collateral means the investment has no risk. Investors should be especially wary of any promoter who suggests that the investor borrow money from home equity to make an investment. During 2006, the Division brought actions against ten different types of real estate investment schemes for fraudulent practices or other violations of the law.

**2. Note Brokering.** The Division is receiving many calls from citizens who purchased training courses teaching them how to become loan brokers, only to discover that they must be licensed as securities brokers to sell notes. Several companies advertise on the Internet and through television infomercials that they will teach investors how to purchase real estate notes at a discount, list them on a web site sponsored by the company, and resell them at a profit. The companies take large fees from investors, claiming the investors can start their own “successful in-home note businesses” and make thousands in profits. The buying and selling of notes for investment requires a securities license and full disclosure to customers.

**3. “Free Meal” Seminars for Seniors.** Many seniors receive invitations to a seminar at which investment advice will be offered along with a promise of a free meal. At the seminar, seniors are told they can increase their investment income, avoid taxes, and earn safe and guaranteed returns. At the conclusion of the seminar, each senior is asked to make an appointment for a personal visit at which the senior’s investment goals can be analyzed. Frequently, these individual meetings are used to learn about all of the senior’s assets and to recommend that they sell their current investments and purchase variable annuities or equity-indexed annuities. These annuities can be appropriate for some investors, but they can be complex and carry extremely high fees and long holding periods. Many of those targeting seniors with free-meal pitches claim to be certified experts, when often the certifications mean nothing more than the person has been trained on what sales pitches are most effective with seniors. During fiscal year 2004-2005, state securities regulators across the country found that over 25% of all enforcement actions involved the financial exploitation of seniors and more than 30% involved the sale of variable or equity-indexed annuities. These statistics were supplied by the North American Securities Administrators Association (NASAA).

**4. Prime Banks.** Prime bank schemes involve claims that money can be deposited with European banks or financial institutions in the U.S. and used to facilitate financial transactions around the world. Generally, investors are told they will receive high-yield, tax free returns through trading by international

elite, or “prime” banks. In one case brought by the Division, promoters claimed investors could receive up to 160% profit per week, that no one had lost money in the investment, and that more than 20 people already had invested \$17 million in the program. Investors are told there is no risk because their money will never leave their control in bank accounts. One of the promoters claimed to be able to offer this program because he had been appointed a “mediator” by the International Monetary Fund (IMF). These claims are all false; there is no such thing as prime banks which use money from investors to facilitate transactions. The supposed IMF mediator had previously been ordered by Missouri securities enforcers to cease selling these investments.

**5. “Hot Tip” Stock Tips Via E-mail.** Move over Nigerian scams. The most prevalent unsolicited e-mails now offer stock tips. Some e-mails pretend to contain inside information directed to another person. Most e-mails use language proclaiming the urgency of buying a particular stock: “Get [the stock] First Thing Tomorrow,” “This is Going to Explode!” “Check out for HOT NEWS!!!,” or “The alert is ON!” The e-mails will generally list a current price for the stock of less than \$1, saying there is a target price of \$3 or \$5 per share. An anti-spam company said that 13% of all e-mails sent were touting penny stocks. One recent study found that investors who act on email invitations lose an average of 5.25% of their money in the first two days. Another study found that over a longer term, investors who purchase these stocks lose a third of their investments.

**6. Church Frauds/Affinity Frauds:** One of the most effective ways to defraud others is to belong to their church or have some other shared association. This might be serving on the PTA, coaching kids’ sports, or being co-workers. People naturally trust those with whom they associate and ask fewer questions. Crooks know this and will use those feelings of trust when soliciting money. The most common affinity fraud is religion. Enforcers of state securities laws have found that 80,000 people were victimized between 1998 and 2001, losing nearly \$2 billion in church frauds. Arizona has been fighting many frauds with religious origins, some with Utah connections.

Last summer, Arizona convicted two officers of the Baptist Foundation of America for their role in a scheme that took \$590 million from 11,000 investors. Arizona filed suit against Mathon Management for a \$167 million fraud involving hundreds of investors, including some in Utah. That state also took action against a group called “Believing in Jesus Investments, LLC,” which solicited investments from church groups. Believers purchase memberships in one of four programs, including “Christian Millionaires in Training.” In Utah, we see many frauds promoted through churches, but also among parents watching their children play sports, among co-workers, and even a fraud targeted at families of prison inmates.

**7. Foreign Currency Trading.** Beware of promoters claiming to have special expertise in buying and selling international currencies. The Division has seen an increase in people claiming to be making huge profit trading currencies. Foreign exchange trading (Forex) is notoriously risky and dominated by large banks and professional traders. A local promoter might be able to create the impression of success by having an office with multiple computer screens tracking financial markets or by creating fictitious account statements showing huge returns, but disappointment awaits. In three cases prosecuted by the Division against Forex promoters in 2006, the promoters always claimed special expertise, but in every case some or all of the investor money was used to pay the promoter’s personal expenses. In all three cases the promoters were not licensed to sell securities or commodities.

**8. Oil and Gas Investments.** As expected, the high price of gasoline is leading to a spurt of investment frauds relating to claims the investor can own part of an oil well. In August 2006, a Washington County man agreed to cease and desist selling securities after being accused of promising an investor his deposit would be backed by an existing oil and gas lease in Texas. Criminal and administrative charges are pending against a Cache County man who allegedly took money from investors claiming the money would be used for oil wells. The Division expects fraud to increase, including claims of new technology for extracting oil from tar sands or oil shale. As oil exploration intensifies in the Uintah Basin using new technologies, investors should expect to be pitched to invest in new inventions or claims of new oil discoveries.

Investors should consult with experts before making any investments in this highly-technical area and make sure the securities are registered.

**9. Deceptive Internet Investing.** Many Internet web sites offer investment programs. Few are managed by licensed securities brokers; many are completely fraudulent. Recently, the Division has discovered two investment programs being offered over the Internet by companies claiming to be headquartered in Utah. The Utah addresses given on the Internet sites do not exist. One offers three “investment programs” paying from 5 – 12% profit per day! Investors can choose the professional plan, the V.I.P. plan, or the “Hot” plan. Investors are also promised 5% commissions for other investors they refer to this investment program. The company claims to be licensed, but the only license it has is a business license issued by Salt Lake City. The other site uses fancy language promising “strategic turnkey solutions that maximize shareholder value.” Investors who pay deposits of \$37,500 are promised profits of \$376,938. The investors were required to send money via wire transfer to a bank in Panama, where the money disappears. Just because an investment has an Internet site does not mean it is legitimate. In fact, these solicitations prove that the information posted on Internet sites may be completely false.

**10. Promissory Notes or Guarantees.** Notes and guarantees are commonly offered by investment promoters to create the appearance that investments are solid or backed by collateral. In reality, a note is just a person’s promise to pay and provides no protection if the person giving the note is in a precarious financial condition. Investors should ask themselves: If this company is in such good financial condition, why are they borrowing money from me? What collateral will be put in my name to ensure the note is repaid? More than 40% of the frauds prosecuted by the Division in 2006 involved the sale of promissory notes or guarantees given by the promoters. When promissory notes or guarantees are given to investors in return for an investment of money, the notes are securities and the sellers must comply with the securities laws.

## **WHAT INVESTORS CAN DO TO PROTECT THEMSELVES**

Investors need to understand that promises of higher returns means there is high risk. Just because a promoter says an investment has no risk or is guaranteed, does not mean the risk is low. Investors should ask themselves: if there is so much profit to be made with no risk, why are they borrowing money from me and not a bank? The answer generally is that a bank has already refused to lend them money.

### **Three Questions Every Investor Should Ask Before Investing**

1. Is the person offering the investment licensed? Find out by calling the Division of Securities at (801) 530-6600.
2. Is the stock offering registered? All securities sold in the state must be registered or exempt. Before you invest your money, call the Division of Securities to make sure it is a legitimate offering.
3. Did the promoter give you a written prospectus summarizing the investment? Did he or she give you a copy of the financial statements showing how the company is doing? Has the promoter disclosed his or her prior business success or any previous criminal convictions or bankruptcies?

### **The Seven Most Common Warning Signs of Investment Fraud**

1. Promises of high returns. Any claim that you can double your money in six months is a fraud.
2. Claims that the investment is guaranteed or that it has little or no risk.
3. Pressure to invest immediately because there is a deadline or only a few openings left.
4. Encouraging you to borrow money from equity in your home to maximize the profit you can make. Because all investments involve risk, no legitimate securities broker will recommend using home equity to make an investment.

5. Vague descriptions about how your money will be used or what the company does.

6. Claims that other people have already checked out the investment and are investing. These may include well-known members of the community or people within your affinity group (your church, workplace, or service organization).

7. The assertion that this investment involves new technology that can solve a problem that big companies in this industry have been unable to solve (such as drilling for oil in new places, new pharmaceuticals that cure well-known diseases, or high-tech inventions).

## **SECURITIES FRAUD STATISTICS**

The North American Securities Administrators Association (NASAA), representing state securities regulators, reported that there had been significant increases in the number of enforcement actions, money ordered returned to investors, and years of incarceration for securities law violations during the 2004-2005 fiscal year.

NASAA reported a 23% increase in enforcement actions (including administrative, civil, and criminal) to 3,635 during the 2004-2005 reporting period, up from 2,964 during the 2002-2003 reporting period. Money ordered returned to investors (including restitution, rescission, and disgorgement) increased 38% to \$911 million from \$660 million during the earlier period. Years of incarceration as a result of securities law convictions rose 30 percent, to a cumulative 935 years, compared to 718 years in the previous reporting period.

The enforcement statistics represent responses from 42 of the 53 U.S. jurisdictions (counting D.C., Puerto Rico, and the Virgin Islands).

Investors are urged to contact the Division of Securities to make sure anyone offering investments is licensed.



## DIVISION STATISTICAL INFORMATION

Licensing Activity	4 <sup>th</sup> Quarter	Year End
Broker-dealers	30	1,685
Broker-dealer agents	2,093	71,200
Inv. advisers (state)	8	156
I.A. representatives	208	2,003
Issuer agents	1	76
Filing Activity		YTD
Coordination registration	26	89
Qualification registration	0	1
Mutual funds/UIT's	1,311	3,378
Regulation D filings	252	710
Exemption filings	13	32

## LITIGATION AGAINST THE DIVISION

### Court Injunction

The Division had filed a civil suit in 2005 against a former agent of a brokerage firm who had sold fraudulent investments. The Division also named the brokerage firm and two supervisors of the agent in the lawsuit, accusing them of negligent supervision. The suit sought an injunction and restitution. The state court rejected the Division's claim against the firm and the supervisors, holding that inadequate supervision was not a basis for claiming fraud or requiring restitution under the Utah Uniform Securities Act and its attendant regulations.

The Division then initiated a licensing action against the broker-dealer and the two supervisors. One of the supervisors filed suit in state court asking the court to enjoin the Division from proceeding with the licensing action. The trial judge issued an initial ruling in October that the Division is barred from bringing a licensing enforcement action based on the dismissal of the civil suit. The judge further ruled that the supervisor's claims need not be raised in administrative proceedings but could be raised in court.

The Division subsequently sought dismissal of the civil suit on December 21, 2006, the court denied the Division's motion to dismiss and enjoined the Division from proceeding with its administrative licensing action.

The Division plans to appeal the ruling and will ask that the administrative action against the other two respondents be stayed pending the results of the appeal.

The Division is working with counsel for the supervisor who filed the lawsuit to resolve his concerns that the prior issue of this newsletter did not accurately describe the status of the action. On page six of this newsletter is a Revisions and Corrections notice relating to that action.

### Viatical Jurisdictional Dispute

In October, the Division issued an Order to Show Cause against Texas-based Life Partners, Inc. alleging that its conduct in selling viatical settlements to Utah residents and accepting money for other settlement investments were securities sold in violation of the law. A hearing was set for November 27.

On November 20, Life Partners filed a notice in Utah federal district court purporting to remove the administrative enforcement case from the Department of Commerce to federal court. On December 14, the Division filed a motion asking the federal court to remand the case back to the Department because the case is not one that is subject to removal and because the federal court has no jurisdiction over the matter. The matter is pending.

On December 4, 2006, the Director of the Division was served with a summons and complaint in a separate lawsuit filed by Life Partners and naming the Division Director as the Defendant. The lawsuit was filed in federal court in Waco, Texas (the home town of Life Partners) and seeks to enjoin the Director from continuing the Division's enforcement action against Life Partners. The complaint alleges that the Division's ability to bring an enforcement action against Life Partners is preempted by the National Securities Markets Improvement Act (NSMIA), passed by Congress in 1996.

The Division strongly disagrees that NSMIA preempts its ability to bring enforcement action against entities outside Utah soliciting investors from within the state. In late December, the Division filed with the Texas federal court a motion to dismiss, arguing the Texas federal court lacks jurisdiction over the dispute. This case is pending.

## **ENFORCEMENT**

### **Revisions and Corrections**

The Division's August 3, 2006 petition with respect to Walnut Street Securities, Carole Turner, and Richard W. Mack has been successfully challenged by Mack on legal grounds in the Third District Court for Salt Lake County. The Court has issued an injunction prohibiting the Division's administrative action from proceeding. The Court ruled the Division's allegations were the subject of a former finalized proceeding that was dismissed as a matter of law in favor of the respondents, and therefore barred by Utah law from re-litigation. The Division intends to appeal the Court's ruling to the Utah Supreme Court. Docket No. SD-06-0040.

### **Anonymous Fraud Promoters**

Historically, securities fraud cases involved situations where the identity of the seller was known (i.e., who was selling investments to whom). In those cases, our enforcement efforts focused on proving the fraud. This involved establishing that sellers engaged in fraud or showing how the money was misused.

We now see a significant increase in cases where the fraud is clear, but the difficulty is in identifying the promoters. The most common of these are e-mails pitching penny stocks that are about to "explode in price." The biggest challenge the Division and the SEC face is identifying who is promoting these stocks and whether these stock "touts" are selling stock.

As discussed summarily in the Division's "Top Ten Predictions," two other anonymous schemes that have surfaced recently claim to be based in Utah. A company called Crown Financial has a web site that discusses the financial services provided by the company. Some of the services are provided by a related company called Clover Mergers & Acquisition. Clover explains that it "provides strategic turnkey solutions that maximize shareholder value in mergers and acquisition transactions." An address is given in Salt Lake, but the address does not exist. Crown solicits money, often from investors outside the U.S. Investors are told their money will release restricted stock in an over-the-counter company. The Division is aware of an Australian investor who paid \$15,000

for the release of restricted stock and was planning to spend \$35,000 more – until his attorney contacted the Division. The money was wired by the customer to an account in Panama (a big warning sign!). The Division was contacted by SIPC about this company. SIPC is providing substantial assistance in our investigation, in an effort to prevent additional losses and identify the promoters behind the company.

Another anonymous solicitor of investments is a web site named LawFirmInvest.com. This entity lists an address in Salt Lake, but that address has only two apartments and no one there is familiar with the company. The web site is hosted in the U.K. where the host is known only by the name "Simon."

LawFirmInvest promises "success, prosperity & financial stability," apparently by trading in the Forex market. Investors can participate in one of three plans: Professional, V.I.P., and Hot. The profit promised ranges from 5 to 12% — daily.

### **Prime Bank Sting**

In October 2006, the Division's enforcement staff was contacted by Missouri enforcement officials asking for assistance on a case. Missouri had issued a cease and desist order against a Kansas City man, Carl Roger Todd, for soliciting large investments in a European "prime bank" scheme. A few weeks later, a Utah resident was pitched a prime bank scheme by an associate of Todd and wisely did some Internet research. The investor contacted Missouri officials after finding Missouri's enforcement action. Missouri asked the Division to assist in preventing perpetuation of the scheme and in determining whether Todd was violating the order against him.

A Division investigator interviewed the Utah resident who had been solicited. The investigator then asked the resident to help. The resident agreed and introduced the investigator to Todd's local representative, Kenneth North.

The investigator told North that he had heard about the program and was interested in earning high returns on his money and that he was willing to invest up to a million dollars. North is alleged to have made statements to the investigator touting the lack of risks and the benefits of the prime bank investment.

The investigator insisted on getting these statements confirmed by Todd, since Todd was supposedly the one with the connections to the “prime banks.” Todd was joined by telephone and confirmed statements made by North. In addition, Todd said he and North had made millions and millions together, that the investor was guaranteed at least 25% per week, and that the investment had no risk.

To ensure that the person on the telephone was indeed Todd, the investigator insisted on talking to Todd in person, before investing. Todd claimed he was heading out of the country and was unable to come to Utah, so the investigator flew to Missouri to meet him. In that meeting, Todd reiterated the claims he had made on the telephone, including the statement that he was one of a limited number of mediators for the International Monetary Fund. He did not disclose the existence of the Missouri cease and desist order and falsely claimed to have already raised millions for the current prime bank program.

Two weeks later, Missouri officials took a previously-scheduled deposition of Todd. The tape recordings of meetings the investigator had with Todd had been transcribed and sent to Missouri. Missouri officials asked Todd, testifying under oath, whether he had solicited any investments in violation of the cease and desist order or claimed to be a mediator for the IMF. He denied any such conduct. When he was asked if he had picked up a potential investor at the airport, coming from Utah, and had solicited investment in a prime bank scheme, he decided to assert his Fifth Amendment right against self-incrimination.

In November, Utah’s Division of Securities initiated proceedings to impose a cease and desist order against Todd and North. The descriptions given here are to explain how the scheme operates and how the Division conducts investigations; there has been no finding yet by a judge that the conduct occurred or that the law was violated.

## ENFORCEMENT ACTIONS

**Oct. 4, 2006.** Robert Q. Cook and Onti Management Group consented to an order that they cease and desist violating securities laws. Cook and his company Onti solicited \$238,000 in a currency trading investment in 2003. They admitted the violations and will pay a \$25,000 fine. Cook had failed to tell the investor that he had a 1998 criminal conviction for theft by deception, had a 1999 bankruptcy, and owed outstanding judgments. Docket No. SD-06-0076.

**Oct. 4, 2006.** A default order was entered against Flavor Brands, Inc. of Las Vegas for attempting to deceive the investment markets that it was the same company as a Utah company that went out of business in 1999. The prior Utah company had done a public offering in 1985. The newly-created Flavor Brands told transfer agents that it was entitled to trade its securities as successor to the Utah company. This conduct is called symbol rustling. The Order requires Flavor Brands to cease offering securities to the public, cease pretending to be the successor to the Utah company, and pay a \$50,000 fine. Proceedings are still pending against three former officers of Flavor Brands. Docket No. SD-06-0057.

**Oct. 4, 2006.** Golden Age Marketing and Management and Lyle B. Dahle were ordered to cease and desist violating the law and must pay fines of \$21,000. The order was entered by default after Golden Age and Dahle failed to appear at either of the two hearings held by the Division to consider the charges against him. Dahle and Golden Age solicited investments to build up Dahle’s insurance business and begin selling over the Internet. He sold stock options and promissory notes paying over 7% interest. Dahle used seminars to solicit investors, telling them the business was doing very well. In fact, Golden Age failed to make the payment on the first note when it was due. The investor later discovered that Dahle had a 2002 conviction for securities fraud and owed an unpaid judgment. Docket No. SD-06-0026.

**Oct. 4, 2006.** The Third District Court entered a default judgment and injunction against Richard F. Dambakly, of Brooklyn New York. He was enjoined from making cold calls into the state, soliciting brokerage accounts,

and conducting securities transactions for Utah residents. He was ordered to pay a fine of \$6,500 and restitution of \$48,494.27. Dambakly was an agent for R.D. White and Co. The brokerage firm and its agents were accused of excessive trading, receiving excessive compensation, and failing to disclose hidden compensation being paid directly by the companies whose stock they were selling. Since the lawsuit was filed in 2000, judgments have been obtained against all but two defendants. The lawsuit continues against those two.

**Oct. 11, 2006.** The Division issued an Order to Show Cause against Michael L. Rasmussen of Salt Lake for defrauding an investor of \$16,000 on a promise the money would be used to finish building homes under construction in Syracuse. The Order alleges Rasmussen promised 20% interest for a temporary loan. In fact, Rasmussen is not a home builder and failed to disclose \$18,992 in unpaid child support judgments against him. Docket No. SD-06-0077.

**Oct. 13, 2006.** A petition was issued against World Group Securities, of Georgia, and two of its Utah agents, Andrew J. Moleff of Spanish Fork, and John F. Hoschouer, of Lehi. The petition alleges the agents committed securities fraud when conducting investment seminars for seniors where they allegedly made deceptive claims about their financial talents, misrepresented client profits, and falsely represented WGS's size. One of Moleff's claims was that a client of his was so happy with Moleff's financial services that he took Moleff on vacations with him. That happy client turned out to be Moleff's father. The petition also alleges that WGS allowed agents to use fraudulent advertising and improperly allowed Moleff, as branch manager, to self-supervise his investment seminars and sales material. Docket No. SD-06-0078.

**Oct. 12, 2006.** William Clemons, who represented himself as an investment expert, pleaded guilty to three felony charges in a case started on March 6, 2006. The Attorney General had alleged that Clemons took \$22,000 from two investors who attended church with him. He told the investors their money would be pooled with investments from others and used to buy stocks. He promised 10% profits. Instead, the money was used for personal expenses. He also lied about his educational degree and work experience.

Clemons paid full restitution. He was ordered to serve another 48 days in jail and three years probation.

**Oct. 16, 2006.** Marvin Smith, of Sandy, agreed to a two-year suspension of his securities license for improper conduct in setting up a web site that could have misled the public and for not getting approval from his broker-dealer for the web site advertising. Smith was an agent for Walnut Street Securities. He set up a web site to advertise his services selling annuities in connection with structured settlements. The web site portrayed Smith as a broker-dealer, rather than as an agent and claimed his services would be provided at no cost. Docket No. SD-06-0028.

**Oct. 16, 2006.** The Securities Advisory Board approved an order imposing sanctions against D.E. Wine Investments, Inc. of Houston, Texas, and its president, Duncan E. Wine. They were ordered to pay a \$2,500 fine and offer rescission to Utah investors. Wine was ordered to cease doing securities transactions in Utah until he is licensed. Wine and Wine Investments admitted violating the law by selling private placement offerings in Utah without Wine being licensed. Investors were sold stock in a startup wireless company and convertible notes in a startup telecommunications company. Wine Investments and Wine cooperated fully in the investigation and admitted the violations, resulting in the imposition of lighter sanctions than ordinarily would be imposed. Docket No. SD-06-0081.

**Oct. 16, 2006.** Raymond James Financial Services consented to an order imposing a \$100,000 fine for the firm's failure to adequately supervise Karon Cook, one of its agents in the state. The Order alleges that Cook sold unregistered securities without the approval of Raymond James, brokered loans for clients, borrowed money from a client, held herself out as an investment adviser when she was not licensed as such, and filed false documents with the Division. Raymond James substantially revised its supervisory and compliance procedures. Cook consented to an order on September 1. This proceeding is now concluded against all parties. Docket No. SD-05-0061.



**Oct. 17, 2006.** Criminal securities charges were filed against Dennis T. Wynn of Salt Lake for selling securities to six victims in an alleged car-flipping investment scheme. He was charged with six counts of securities fraud, eight counts of theft, two counts of exploitation of a senior, two counts of witness tampering, and racketeering. Wynn promised investors profits by investing in his car-flipping business. He took \$184,526 from investors, giving them either unsecured promissory notes or verbal investment contracts. The Securities Division filed administrative proceedings against Wynn and his two companies in September, seeking a cease and desist order. Those proceedings are still pending.

**Oct. 18, 2006.** The Attorney General announced that criminal charges had been filed against Bennie Smith, Jr. of Salt Lake on August 22, 2006. The announcement of the charges was postponed to try to locate Smith. He was charged with five felony counts of theft, selling unregistered securities, and fraud. Smith is accused of taking \$150,000 from an investor to fund “secret” contract work he was performing for several states. He claimed the investment was secured by Las Vegas property, but that property sold at foreclosure based on existing liens. The money was used on personal expenses. Administrative proceedings were initiated against Smith and his company on August 8, 2006.

**Oct. 20, 2006.** An Order to Show Cause was issued against Texas-based Life Partners, Inc., Life Partners Holdings, Inc., and Mark B. Sutherland of Nevada. The three are accused of selling Utah investors viatical settlement interests without a securities license. In viatical settlements, an investor buys the right to receive the life insurance benefit of another person. Viaticals are defined as securities under Utah law. Life Partners sponsored a booth at a mortgage seminar in Salt Lake, soliciting mortgage brokers to sell viatical interests. At least five investors gave the company over \$50,000. Docket No. SD-06-0083.

On November 22, 2006, Life Partners filed documents with the federal court purporting to move this administrative case to federal court. The Division believes this move is improper and is contesting the action.

**Oct. 31, 2006.** Trigenix, Inc. and Culley W. Davis, of Salt Lake, were ordered to show cause why they did not violate Utah law by selling unregistered securities to two investors. Davis told the investors their \$100,000 investment would be used to take Trigenix public, doubling the stock price. He offered a promissory note paying 20% interest until the company went public. The Division alleges that Davis failed to tell the investors that he had been enjoined by Idaho officials, had filed bankruptcy owing over 100 creditors, faced a Utah tax lien, and owed a \$1 million judgment. The investors have not received any of their money back. Docket No. SD-06-0086.

**Nov. 1, 2006.** A default order was entered against Bennie Smith, Jr. and his company Blacksmith Management Group for taking \$150,000 from a Utah investor to fund government contracts that did not exist. Smith is believed to be living in Arizona. These proceedings were initiated on August 8, 2006. Criminal charges were filed by the Attorney General on August 22 for the same conduct. The default order requires Smith and Blacksmith to cease and desist any violations of Utah’s securities laws and to pay \$275,000 in fines. The investor already has obtained judgments against Smith and Blacksmith for the amount of her investments. Docket No. SD-05-0055.

**Nov. 1, 2006.** Virgil G. Smock, and his company E&V Investments, Inc. were ordered to cease and desist taking advance fees from investors based on a promise of making low interest loans. The Order was entered by default after Smock and E&V failed to respond to the Division’s October 2005 Order to Show Cause. The default order found that Smock and E&V took \$5,250 from an investor by promising a low interest loan of \$5 million. Smock paid a \$500 fine. E&V was ordered to pay a \$5,000 fine. Docket No. SD-05-0065.

**Nov. 6, 2006.** David F. Hull, of Boise, Idaho, was ordered to show cause why he should not be found to have violated the law by taking \$7,500 for stock in Tambora Financial Corp., a company run by Hull. The order alleges Hull took money from the investor when they both served on the board of a Park City church. Hull allegedly told the investor that Tambora had agreed to merge with another company and planned to be a public company. Docket No. SD-06-0086.

**Nov. 7, 2006.** The Utah Attorney General filed criminal charges against Bradley R. Keyser, of South Jordan, alleging he took \$130,000 from investors for a credit card processing company he operated. Keyser issued promissory notes promising 10% interest. He allegedly told the investor the money would be used to buy out a business and expand. Keyser spent much of the investment money on utility bills, religious donations, mortgage payments, grocery bills, and automobile expenses. He was charged with securities fraud, exploitation of the elderly, and theft.

**Nov. 9, 2006.** A default order was entered against Dennis T. Wynn and his two companies, DFTF Financial and Arizona Cyber Auto after they failed to appear at a hearing or defend themselves in an action brought by the Division. The order found that Wynn solicited \$82,026 from four investors for a profit-making scheme that involved the purchase of cars that would be resold at a profit, with the profit being shared with the investor. Some of the investors were given promissory notes. Wynn said the investments were secured by the car titles and that the cars he sold had a GPS unit that would shut down the cars if the owners failed to make payments. In fact, the investor money was used for personal and business expenses, not buying cars. Docket No. SD-06-0067. Separately, the Utah Attorney General filed criminal charges against Wynn on October 12, 2006. He is awaiting trial on those charges.

**Nov. 14, 2006.** An Order to Show Cause was issued against Freedom Assets, Executive Assets, Kerry D. Pipkin, and Laurie A. Pipkin for taking \$10,000 from an Idaho investor by promising 15% return in just three months. The Pipkins said the money would be used to finance the accounts receivable for an Asian latex glove manufacturer. In reality, the SEC had sued the California promoters of the latex glove scheme and frozen its assets. When the Pipkins learned this, they kept the money, using it for personal expenses such as credit card payments, cell phone bills, mortgage payments, and paying child support. Docket No. SD-06-0091.

**Nov. 17, 2006.** The Division issued an Order to Show Cause against Carl R. Todd, of Missouri, and Kenneth W. North, of Utah County, for a fraudulent prime bank investment scheme.

The Division alleges that in violation of a Missouri cease and desist order, Todd solicited investments by promising high-yield, tax-free returns by trading in the investment portfolios of international “elite” banks. Todd told an undercover investigator from the Division that he (Todd) was a mediator for the IMF, that investors could expect to receive up to 160% return per week on their deposits, that the investment money was not at risk and no one had ever lost any money, and that the transactions would be handled by Lehman Brothers investment bank. Docket No. SD-06-0090.

**Nov. 21, 2006.** Criminal charges were filed by the Attorney General against Kerry D. Pipkin and Laurie A. Pipkin, of South Ogden. The Pipkins were each charged with four felony counts: securities fraud, theft, securities sales by unlicensed agents, and sales of unregistered securities. The Pipkins are charged with taking \$10,000 from investors in a factoring investment for a latex glove company in Malaysia. The charges allege that the investors were told the investment was a “sure thing,” was secured by assets of the company, and that other investors were earning huge profits. The Division of Securities initiated cease and desist proceedings against the Pipkins earlier in November. Both cases are pending.

**Nov. 28, 2006.** Bruce W. Anderson, of Cove, Utah was charged with 14 felony counts by the Cache County Attorney for Anderson’s taking of \$596,000 from nine investors. The investors were sold stock in several companies controlled by Anderson. The companies allegedly would develop the technology to enable electric cars to run a week without battery recharge, invent advanced fiber optics, make a machine that would turn automobile tires into electricity, and produce equipment that would convert garbage into electricity. The Cache County Attorney also alleged that Anderson failed to disclose judgments and tax liens outstanding against him. The Division had brought administrative proceedings against Anderson earlier in 2006.

**Dec. 7, 2006.** A default order was entered against City Lips Cosmetics, City Lips Marketing, Jory D. Allen, and Chad D. Wright, all of Salt Lake City. They were accused in September of misrepresenting material facts and failing to disclose information when taking \$454,000 from three investors.

Victims were told their investments would be used to grow the cosmetics business and were promised 3% per month. Investors were not told one of the company officers had his securities license revoked, a second had a criminal conviction, and a third had a pending tax lien. These respondents failed to defend the action against them and are ordered to cease and desist violating the law and to pay \$1,225,000 in fines. A fifth respondent, Frank J. Gillen, has requested a hearing. Proceedings against him are continuing. Docket No. SD-06-0068.

**Dec. 12, 2006.** Douglas Merritt, of Layton, pleaded guilty to securities fraud and selling unregistered securities, both felonies. Merritt had taken control of money from an investor, saying the money would be kept safe, but used as collateral. He falsely claimed to be registered with the SEC and have two PhD's. In reality, Merritt had been sued multiple times, resulting in judgments of more than \$5 million. He also failed to disclose two prior criminal convictions. As part of his plea, Merritt will pay \$129,000 in restitution. He will be sentenced in February 2007.

**Dec. 19, 2006.** Robert L. Kime, of Bountiful, was sentenced on five counts of securities fraud, all third-degree felonies. Kime had taken money from investors to finance high risk mortgages, telling the investors their money was secured by trust deeds on property being mortgaged. As part of his sentence, Kime will spend 30 days in jail, be on probation for three years, perform 300 hours of community service, and pay \$685,000 in restitution. He paid \$180,000 at the time of sentencing.

**Dec. 18, 2006.** The Division issued a supplemental Order to Show Cause against The Thornwater Company and Robert J. Grabowski, of New York for the failure of Thornwater to pay a fine of \$100,000 imposed in August 2006. Thornwater and Grabowski consented to the entry of the August order and Grabowski agreed that if Thornwater did not pay its fine, he would be barred from the securities industry. The earlier action arose out of abusive trading in customer accounts. Docket No. SD-06-0096.

**Dec. 21, 2006.** Michael L. Rasmussen, of Salt Lake was ordered to pay a fine of \$30,000 and cease and desist violating the securities laws for a real estate scheme.

The order was entered by default after Rasmussen failed to defend himself in the Division's enforcement action. Rasmussen promised 20% profit to an investor, claiming the money was needed to complete three homes he was building in Syracuse Utah. He failed to tell the investor he was not a licensed contractor and had over \$18,000 in unpaid judgments. Docket No. SD-06-0077.

**Dec. 21, 2006.** The Division issued an Order to Show Cause against investment promoters Penny Financial, Perry Penny, Terry Penny (of Gilbert AZ), RYM Technology, and Felix L. Daniel (of Wayne County, MI). The Division alleges that Penny Financial advertises a "5 Years to Freedom" investment program on its web site. Under this program, homeowners invest at least 25% of the value of their home mortgages. Then, RYM Technologies would invest the money in a way that pays off the entire mortgage in only five years. Potential investors were told there was no risk and that the amount invested was guaranteed against loss. The company claimed it had a patent pending and the IRS had approved the program. Docket No. SD-06-0097.

## EVALUATION OF SERVICES

The Division is seeking feedback from those using our services to find ways to improve our performance. An evaluation form has been created, asking users of our services to evaluate our performance on a scale of 1 to 5. The evaluation form also asks for narrative suggestions on improving our services.

A copy of this evaluation form is included with this newsletter. We ask that you take a few minutes to complete the evaluation and submit it by mail, fax, or e-mail. A copy of the form also is on the Division's web page.



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